

ST 15-0074-GIL 12/1/15 TELECOMMUNICATIONS EXCISE TAX

The Telecommunications Infrastructure Maintenance Fee Act does not contain an exemption for retailers selling telecommunications to state universities. 35 ILCS 635/15(b). (This a GIL.)

December 1, 2015

Dear Xxxxx:

This letter is in response to your letter dated October 25, 2015, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings (“PLRs”) are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department’s regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter (“GIL”) is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is a CITY based wireline telecommunications provider. We occasionally receive inquiries from customers who have received a tax exemption letter/certificate from your office. The customer in question is a State College created by statute.

Illinois Telecommunications Excise Tax. We believe this customer/college is exempt from Illinois Telecommunications Excise Tax per 35 ILCS 630/2(k) which states that the exemption applies to only a precious few...including state universities created by statute [provided however, that the exemption extends only to telecommunications purchased by such entities for their own use...clarification provided from ST 14-0043-GIL 08/11/14].

Illinois Telecommunications Infrastructure Maintenance Fee. We are not clear if this customer/college is also exempt from Illinois Telecommunications Infrastructure Maintenance Fee. Is there any exemption correlation between the two statutes? Has there been a ruling that states if the customer/college is exempt from the Illinois Telecommunications Excise Tax then they are also exempt from the Illinois Telecommunications Infrastructure Maintenance Fee?

Please give this matter your prompt attention. Thank you for your cooperation.

DEPARTMENT'S RESPONSE:

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. 35 ILCS 630/3 and 630/4. "Sale at retail" means the transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration to persons other than the Federal and State governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale. 35 ILCS 630/2.

The "State universities" to which these provisions apply are those universities which are each individually established by the Illinois legislature and which draw their funding from State appropriations. These universities would include, for instance, the University of Illinois and Southern Illinois University. Each of these universities was established by legislative fiat and are governed by boards empowered by statute. The powers attributable to each university are also specifically set forth in various statutes applicable solely to each university.

The Telecommunications Infrastructure Maintenance Fee Act imposes a State infrastructure maintenance fee upon telecommunications retailers equal to 0.5% of all gross charges charged by the telecommunications retailer to service addresses in this State for telecommunications, other than wireless telecommunications, originating or received in this State. 35 ILCS 635/15(b). A telecommunications retailer shall charge each customer an additional charge equal to the State infrastructure maintenance fee attributable to that customer's service address. Such additional charge shall be shown separately on the bill to each customer. 35 ILCS 635/25(a).

The Telecommunications Infrastructure Maintenance Fee Act does not contain an exemption for retailers selling telecommunications to state universities. Retailers are liable for the infrastructure maintenance fee upon all gross charges charged by the telecommunications retailer to state universities.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Richard S. Wolters
Associate Counsel

RSW:ebj